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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 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (Part 3 added by Stats. 1965, Ch. 1784.)

CHAPTER 7.5. Protect Access to Health Care Act of 2024 [14199.100 - 14199.136] (Chapter 7.5 added November 5, 2024, by initiative Proposition 35, Sec. 1.)

ARTICLE 2. Protect Access to Health Care Fund [14199.103 - 14199.107] (Article 2 added November 5, 2024, by initiative Proposition 35, Sec. 1.)

14199.103. Creation of the Protect Access to Health Care Fund

(a) (1) The Protect Access to Health Care Fund (fund) is hereby established in the State Treasury.

(2) Notwithstanding any other law:

(A) The fund is a special fund, permanently separate and apart from the General Fund or any other state fund or account.

(B) Notwithstanding Section 16305.7 of the Government Code, any interest or dividends earned on moneys in the fund shall be retained in the fund and used solely as set forth in this chapter.

(b) The Health Care Oversight & Accountability Subfund is hereby established in the fund.

(c) The Improving Access to Health Care Subfund is hereby established in the fund.

(d) Notwithstanding any other law:

(1) (A) Effective January 1, 2027, any remaining moneys in the Managed Care Enrollment Fund created pursuant to Section 14199.82 that are not necessary to fund liabilities or encumbrances to support the subcomponents of the Medi-Cal program set forth in subdivision (d) of Section 14199.82 for expenditures associated with the 2023, 2024, 2025, and 2026 payments shall be transferred to the Medi-Cal Access and Support Account.

(B) Effective on the date on which all remaining encumbered moneys in the Managed Care Enrollment Fund have been exhausted, the Managed Care Enrollment Fund is hereby abolished, and Section 14199.82 shall become inoperative, and is hereby repealed one year after becoming inoperative.

(2) (A) Effective January 1, 2027, any remaining moneys in the Medi-Cal Provider Payment Reserve Fund created pursuant to Section 14105.200 that are not necessary to fund liabilities or encumbrances for the purposes set forth in Section 14105.200 for expenditures associated with the 2023, 2024, 2025, and 2026 calendar years shall be transferred to the Medi-Cal Access and Support Account.

(B) Effective on the date on which all remaining encumbered moneys in the Medi-Cal Provider Payment Reserve Fund have been exhausted, the Medi-Cal Provider Payment Reserve Fund is hereby abolished, and Section 14105.200 shall become inoperative, and is hereby repealed one year after becoming inoperative.

(Added November 5, 2024, by initiative Proposition 35, Sec. 1. Effective December 18, 2024. Approved in Proposition 35 at the November 5, 2024, election. Operative January 1, 2025, pursuant to Section 14199.135.)

14199.104. Fund Oversight and Accountability

(a) The people of the State of California hereby declare their unqualified intent for the moneys deposited into the fund to be used to support the purposes set forth in this chapter without delay or interruption. The purpose of this section is to provide oversight and accountability mechanisms to guarantee that the people's intent is carried out.

(b) (1) Every four years, the Controller shall conduct an independent financial audit of the programs receiving moneys from the fund. The Controller shall report the findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its internet website.

(2) The Controller's audit shall also assess the department's annual compliance with Section 14199.107.

(c) (1) The Controller shall be separately reimbursed from moneys in the Health Care Oversight & Accountability Subfund for actual costs incurred in conducting the financial audit required by subdivision (b) of this section and the reviews required by subdivision (b) of Section 14199.107 in an amount not to exceed seven hundred fifty thousand dollars (\$750,000) per audit and review.

(2) The seven hundred fifty thousand dollars (\$750,000) per audit and review maximum limit shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this paragraph.

(Added November 5, 2024, by initiative Proposition 35, Sec. 1. Effective December 18, 2024. Approved in Proposition 35 at the November 5, 2024, election. Operative January 1, 2025, pursuant to Section 14199.135.)

14199.105. Treatment of Moneys Deposited in and Expended from the Fund

Notwithstanding any other law:

(a) The fund, and every subfund, account, and subaccount within the fund, is hereby declared to be a trust fund, trust subfund, trust account, or trust subaccount.

(b) Except as provided in Sections 16310 and 16381 of the Government Code as those sections read on January 1, 2023, moneys in the fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or any other state or local fund or account. Moneys deposited into the fund, and any subfund, account, or subaccount within the fund, including any interest or dividends earned thereon, shall only be used for the specific purposes set forth in this chapter. Action shall not be taken that permanently or temporarily changes the status of the fund or any subfund, account, or subaccount within the fund as a trust fund, trust subfund, trust account, or trust subaccount, or borrows, diverts, or appropriates the moneys in the fund in a manner inconsistent with this chapter.

(c) (1) The taxes imposed by Article 7.1 (commencing with Section 14199.80) of Chapter 7 during calendar years 2025 and 2026, and Article 6 (commencing with Section 14199.123) and the moneys derived therefrom, including interest and penalties but less payment of refunds, are required to be deposited into the fund as set forth in Article 3 (commencing with Section 14199.108). The fund is a special fund and trust fund permanently and irrevocably separate and apart from the General Fund. Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated to the department without regard to fiscal year for the purposes set forth in this chapter.

(2) (A) Therefore, the taxes and the moneys resulting therefrom described in paragraph (1) shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of Title 2 of the Government Code, shall not be considered General Fund revenues for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "General Fund revenues," "state revenues," "moneys," or "General Fund proceeds of taxes" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

(B) This paragraph does not change the character of the taxes and the moneys resulting therefrom described in paragraph (1) as "state revenues" or "state tax revenues" for purposes of Title XIX and Title XXI of the Federal Social Security Act.

(Added November 5, 2024, by initiative Proposition 35, Sec. 1. Effective December 18, 2024. Approved in Proposition 35 at the November 5, 2024, election. Operative January 1, 2025, pursuant to Section 14199.135.)

14199.106. Administration

(a) (1) The department shall be annually reimbursed from moneys in the Health Care Oversight & Accountability Subfund for actual and necessary costs incurred in administering this chapter in an amount not to exceed 0.0005 percent of the moneys annually deposited into the fund or four million dollars (\$4,000,000), whichever is greater. Any interagency agreements entered into by the department for administration of this chapter shall be covered by the amount provided in this subdivision.

(2) The limit in paragraph (1) shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this paragraph.

(b) (1) (A) On and after January 1, 2027, the department has a nondiscretionary ministerial duty to use all of the moneys in the fund, and each subfund, account, and subaccount within the fund, to accomplish the purposes of this chapter on an annual basis. Therefore, on and after January 1, 2027, the department shall make every reasonable effort to exhaust or otherwise encumber all of the moneys in the fund by the end of each calendar year or fiscal year.

(B) The department may choose to comply with this requirement on a calendar year or fiscal year basis and may account for such expenditures on an accrual or cash basis. The department shall publish its choices under this subparagraph on its internet website.

(C) For purposes of this paragraph, unexhausted moneys in the fund that are allocated for expenditures associated with payments to Medi-Cal providers pursuant to a federally approved methodology, or a methodology for which federal approval is pending, shall be considered otherwise encumbered at the end of each applicable calendar year or fiscal year.

(2) In any challenge alleging that the department is violating this nondiscretionary ministerial duty, the court shall apply its independent judgment and deference shall not be accorded to the department.

(c) (1) If, in any challenge brought to remedy a violation of this chapter, a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

(2) (A) If any challenge to invalidate an action that violates this chapter is successful by way of a final judgment issued by a court of competent jurisdiction, then an amount of moneys necessary to restore the fund, subfund, account, or subaccount from which the moneys were unlawfully taken or diverted to its financial status had the unlawful action not been taken shall be transferred from the General Fund to the fund, subfund, account, or subaccount, as applicable, upon appropriation by the Legislature. Interest calculated at the Pooled Money Investment Fund rate from the date or dates the moneys were unlawfully taken or diverted shall accrue to the amounts required to be transferred pursuant to this paragraph. Within 30 calendar days of the appropriation made by the Legislature, the Controller shall make the transfer required by this paragraph and issue a notice to the parties, the department, and the committee that the transfer has been completed.

(B) If the Legislature fails to appropriate sufficient moneys to satisfy a final judgment described in subparagraph (A) within 365 days of the issuance of that judgment, the court shall direct the Controller to use moneys in the Medi-Cal Access and Support Account to restore the moneys that were unlawfully taken or diverted, including interest.

(Added November 5, 2024, by initiative Proposition 35, Sec. 1. Effective December 18, 2024. Approved in Proposition 35 at the November 5, 2024, election. Operative January 1, 2025, pursuant to Section 14199.135.)

14199.107. Nonsupplantation

(a) (1) Except as otherwise specified in Article 4 (commencing with Section 14199.109), moneys in the fund shall not be used to replace or supplant state revenue sources already in existence before the effective date of this chapter. Moneys in the fund shall only be used to expand the health care benefits, health care services, health care workforce, and payment rates above and beyond those already in effect or in existence as of January 1, 2024.

(2) In order to ensure compliance with paragraph (1) and achieve the purposes of this chapter, and except as otherwise specified in Article 4 (commencing with Section 14199.109), moneys in the fund shall be used only to increase and enhance, and not replace or supplant, each and every preexisting state revenue source for the services and programs that receive additional financial support pursuant to Article 3 (commencing with Section 14199.108) and Article 4 (commencing with Section 14199.109) of this chapter.

(3) Except as otherwise specified in Article 4 (commencing with Section 14199.109), moneys in the fund shall not be used to supplant any preexisting state revenue source used to provide Medi-Cal services, benefits, or coverage, moneys used for the California Affordable Drug Manufacturing Act of 2020, or the health care workforce provisions set forth in this chapter.

(b) (1) The department shall annually issue a public written report providing a detailed explanation of whether or not, and how, compliance with subdivision (a) is being achieved. The report shall be posted on the department's internet website.

(2) As part of its audit responsibilities under Section 14199.104, the Controller shall independently review the reports prepared by the department pursuant to paragraph (1) and publicly issue a separate written opinion regarding whether or not compliance with subdivision (a) is being achieved. Costs incurred by the Controller attributable to this requirement shall be reimbursable pursuant to subdivision (c) of Section 14199.104.

(c) In any challenge alleging that the moneys in the fund, and the subfunds, accounts, and subaccounts established within the fund, are being used to supplant preexisting state revenues already used for the purposes described in this chapter, the court shall apply its independent judgment and deference shall not be accorded to the department.

(d) For purposes of this section, Sections 14199.84 and 14199.123 shall be deemed to be the same state revenue source.

(e) Additional express references in this chapter to prohibitions on supplanting funding does not imply greater nonsupplantation protection for the accounts containing those references, or lesser nonsupplantation protection for accounts lacking those references.

(Added November 5, 2024, by initiative Proposition 35, Sec. 1. Effective December 18, 2024. Approved in Proposition 35 at the November 5, 2024, election. Operative January 1, 2025, pursuant to Section 14199.135.)