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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 8. Prepaid Plans [14200 - 14499.77] (Chapter 8 added by Stats. 1972, Ch. 1366.)

ARTICLE 7. Pilot Programs [14490 - 14499.6] (Article 7 added by Stats. 1977, Ch. 1036.)

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000), the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs that demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each pilot program shall be for a specified duration not to exceed five years, and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

Upon a finding by the director that a pilot program contributes substantially to the availability of high quality health services and that those services are cost-effective, the director shall enter into a contract for a period of up to five years.

Where the director recommends implementation of a pilot program on a permanent basis, but finds that he or she is not able to implement on a permanent basis that program immediately upon conclusion of the program's term, he or she may extend the duration of the pilot program until the evaluation or permanent implementation can be accomplished. The extension shall be for a term not in excess of one year, but may be renewed for additional one-year terms, provided that the director has completed an evaluation to include findings that would qualify an extension.

(Amended by Stats. 1997, Ch. 17, Sec. 154. Effective January 1, 1998.)

14491. The director shall pursue the feasibility of establishing the following as pilot programs:

- (a) A capitated, risk-assuming contract with one or more regional fiscal intermediaries.
- (b) A capitated, risk-assuming contract with acute care hospitals within a county or region.
- (c) A capitated, risk-assuming contract with one or more organizations which provide payment to a specified class or classes of providers.

For purposes of this section, "risk-assuming" means the pilot program contractor agrees to assume the risk of utilization of services or costs of services, or both.

(Added by Stats. 1977, Ch. 1036.)

14493. The director shall also consider programs which demonstrate an innovative and economical use of health personnel and are approved pursuant to Article 18 (commencing with Section 429.70), Chapter 2, Part 1, Division 1 of the Health and Safety Code.

(Added by Stats. 1977, Ch. 1036.)

14494. The director may enter into other contracts under this article which do one or more of the following:

- (a) Demonstrate an innovative and economical use of health personnel.
- (b) Emphasize preventive care.
- (c) Stress new methods for controlling utilization of services.
- (d) Stress new methods of reviewing provider competency or quality of care.
- (e) Stress a more economical organization of health care resources and delivery systems.
- (f) Provide an incentive to beneficiaries to seek the most economical level of care.

(g) Demonstrate innovative methods for health care financing, such as prospective budgeting in regard to enrolled population or volume of services.

(h) Test or demonstrate the feasibility of allowing California citizens to purchase Medi-Cal coverage at a premium rate determined by the department on an actuarial basis.

(Added by Stats. 1977, Ch. 1036.)

14495. In establishing pilot programs, the director may do the following:

(a) Provide benefits based on class of recipient, class of benefit, geographical area, or any other reasonable classification.

(b) Modify, to the extent permitted by federal law, the scope and duration of benefits provided by Section 14132. The extent of coverage may be limited to a fixed number of days or to amount or duration of services.

(c) Modify, to the extent permitted by federal law, Medi-Cal eligibility determination processes or criteria.

(d) Allow for the provision of Medi-Cal benefits on a prepaid basis in a given geographical area exclusively by the pilot program.

(e) Assign persons eligible for Medi-Cal benefits to a pilot program or a prepaid health plan on a pilot basis, provided such persons shall be entitled to disenroll for any cause for a period of 30 days following the effective date of enrollment and to receive a Medi-Cal card pursuant to Section 14017.

(Added by Stats. 1977, Ch. 1036.)

14495.10. (a) The department shall establish a pilot program to provide continuous skilled nursing care as a benefit of the Medi-Cal program, when those services are provided in accordance with an approved federal waiver meeting the requirements of subdivision (b). "Continuous skilled nursing care" means medically necessary care provided by, or under the supervision of, a registered nurse within his or her scope of practice, seven days a week, 24 hours per day, in a health facility participating in the pilot program. This care shall include a minimum of eight hours per day provided by or under the direct supervision of a registered nurse. Each health facility providing continuous skilled nursing care in the pilot program shall have a minimum of one registered nurse or one licensed vocational nurse awake and in the facility at all times.

(b) The department shall submit to the federal Centers for Medicare and Medicaid Services, no later than April 1, 2000, a federal waiver request developed in consultation with the State Department of Developmental Services and the Association of Regional Center Agencies, pursuant to Section 1915(b) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)) to provide continuous skilled nursing care services under the pilot program.

(c) (1) The pilot program shall be conducted to explore more flexible models of health facility licensure to provide continuous skilled nursing care to developmentally disabled individuals in the least restrictive health facility setting, and to evaluate the effect of the pilot program on the health, safety, and quality of life of individuals, and the cost-effectiveness of this care. The evaluation shall include a review of the pilot program by an independent agency.

(2) Participation in the pilot program shall include 10 health facilities provided that the facilities meet all eligibility requirements. The facilities shall be approved by the department, in consultation with the State Department of Developmental Services and the appropriate regional center agencies, and shall meet the requirements of subdivision (e). Priority shall be given to facilities with four to six beds, to the extent those facilities meet all other eligibility requirements.

(d) Under the pilot program established in this section, a developmentally disabled individual is eligible to receive continuous skilled nursing care if all of the following conditions are met:

(1) The developmentally disabled individual meets the criteria as specified in the federal waiver.

(2) The developmentally disabled individual resides in a health facility that meets the provider participation criteria as specified in the federal waiver.

(3) The continuous skilled nursing care services are provided in accordance with the federal waiver.

(4) The continuous skilled nursing care services provided to the developmentally disabled individual do not result in costs that exceed the fiscal limit established in the federal waiver.

(e) A health facility seeking to participate in the pilot program shall provide care for developmentally disabled individuals who require the availability of continuous skilled nursing care, in accordance with the terms of the pilot program. During participation in the pilot program, the health facility shall comply with all the terms and conditions of the federal waiver described in subdivision (b), and shall not be subject to licensure or inspection under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. Upon termination of the pilot program and verification of compliance with Section 1265 of the Health and Safety Code, the

department shall immediately reinstate the participating health facility's previous license for the balance of time remaining on the license when the health facility began participation in the pilot program.

(f) The department shall implement this pilot program only to the extent it can demonstrate fiscal neutrality, as required under the terms of the federal waiver, and only if the department has obtained the necessary approvals to implement the pilot program and receives federal financial participation from the federal Centers for Medicare and Medicaid Services.

(g) In implementing this article, the department may enter into contracts for the provision of essential administration and other services. Contracts entered into under this section may be on a noncompetitive bid basis and shall be exempt from the requirements of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(h) This section shall be repealed if and when the federal Centers for Medicare and Medicaid Services approve a federal waiver pursuant to Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)) or approve a state plan amendment to make this pilot program a permanent program. If the federal Centers for Medicare and Medicaid Services provide that approval, the Director of Health Care Services shall execute a declaration stating that this approval has been granted. The director shall retain the declaration and this section shall be repealed on the date that the director executes a declaration pursuant to this subdivision.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 51. Effective July 28, 2009. Repealed conditionally as prescribed by its own provisions.)

14496. (a) Alternate methods of payment for a pilot program may include, but shall not be limited to, a prospectively negotiated reimbursement rate, fee-for-service, retainer, capitation, or other basis.

(b) In order to implement expeditiously the budgeting decisions of the Legislature, the director shall, to the extent permitted by federal law, adopt regulations setting rates payable to providers which reflect such decisions 30 days after the enactment of the Budget Act and of any other appropriation which changes the level of funding for Medi-Cal services. The proposed regulations shall be submitted to the Department of Finance five days prior to the date of adoption. With the written approval of the Department of Finance, the director shall adopt such regulations as emergency regulations in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code). For purposes of such act, the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

(c) In order to implement expeditiously the budgeting decisions of the Legislature, the director and the contractor shall, to the extent permitted by federal law, amend the pilot project contract to reflect such decisions 60 days after the enactment of the Budget Act and of any other appropriation which changes the level of funding for Medi-Cal services. Any approvals, ratifications, reviews, or analyses of such amendments required to be undertaken by any state agency or state department shall be completed within the 60-day period specified in this subdivision.

(Amended by Stats. 1990, Ch. 1516, Sec. 3. Effective September 30, 1990.)

14497. The director shall call a public hearing pursuant to Section 14300 prior to entering into or renewing a pilot program. The director shall make available to the public a statement of objectives, program proposal, pilot program contract, and other details regarding the pilot program not less than five days prior to the public hearing.

(Added by Stats. 1977, Ch. 1036.)

14499.5. (a) (1) In carrying out the intent of this article, the director shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.

(2) Notwithstanding the limitations contained in Section 14490, the director may enter into, or extend, contracts with the local pilot program in Santa Barbara County pursuant to paragraph (1) for periods that do not exceed three years.

(b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:

(1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.

(2) Physician case management.

(3) Cost containment through provider incentives and other means.

(c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any combination of the following paragraphs:

(1) Relevant prior fee-for-service Medi-Cal experience in the program county.

(2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties.

(3) Medi-Cal experience of the pilot project in the program county if, as determined by the department, the scope, level, and duration of, and expenditures for, any services used in setting the rates under this paragraph would be comparable to fee-for-service conditions were they to exist in the program county and would be more actuarially reliable for use in ratesetting than data available for use in applying paragraph (1) or (2).

The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.

(d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Care Services and the Department of General Services shall execute the contract within 60 days.

(e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.

(f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara Regional Health Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Care Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, relative to the services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.

(g) Dental services may be included within the services provided in this pilot program.

(h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.

(i) (1) (A) The department may negotiate exclusive contracts and rates with the Santa Barbara Regional Health Authority in the implementation of this section.

(B) Contracts entered into under this article may be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(C) The department shall enter into contracts pursuant to this article, and shall be bound by the terms and conditions related to the rates negotiated by the negotiator.

(2) The department shall implement this subdivision to the extent that the following apply:

(A) Its implementation does not revise the status of the pilot program as a federal demonstration project.

(B) Existing federal waivers apply to the pilot program as revised by this subdivision, or the federal government extends the applicability of the existing federal waivers or authorizes additional federal waivers for the implementation of the program.

(3) The implementation of this subdivision shall not affect the pilot program's having met any of the requirements of Part 3.5 (commencing with Section 1175) of Division 1 of the Health and Safety Code and this division applicable to the pilot program with respect to the negotiations of contracts and rates by the department.

(Amended by Stats. 2007, Ch. 188, Sec. 93. Effective August 24, 2007.)

14499.6. (a) The Santa Barbara Regional Health Authority may arrange with out-of-county Selective Provider Contracting Program hospitals that have negotiated hospital contracts and per diem rates under Article 5.1 (commencing with Section 14165) of Chapter 7, to provide medically justified emergency services or to provide specialized hospital services not available within Santa Barbara County to Medi-Cal beneficiaries who reside in Santa Barbara County. The authority may arrange medically justified inpatient hospital services with out-of-county program hospitals for those beneficiaries whose county of residence for purposes of eligibility determination is Santa Barbara, but who for medical or legal reasons physically reside in a county other than Santa Barbara.

(b) The out-of-county program hospitals shall not charge the authority more than their program negotiated rates when providing hospital services to authority patients under this section, except as provided in subdivision (c).

(c) In cases where an out-of-county program hospital can demonstrate that the cost of the services it is rendering to authority patients was not contemplated in the case mix and acuity assumptions on which the program rates are based, the program hospital

and the authority shall negotiate in good faith equitable rates for payment for the provision of hospital services to authority patients. The established program rate shall serve as the base for those negotiations.

(d) (1) Notwithstanding any other provision of law, any records maintained by the authority that would enable a determination to be made regarding rates negotiated pursuant to Article 5.1 (commencing with Section 14165) of Chapter 7, shall be exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) The authority shall establish guidelines to ensure that these rates are maintained as confidential records and that access to these records is restricted.

(3) The authority shall submit the established guidelines to the department for approval.

(Amended by Stats. 2021, Ch. 615, Sec. 458. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)