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

PART 5. COUNTY AID AND RELIEF TO INDIGENTS [17000 - 17613.4] (*Part 5 added by Stats. 1965, Ch. 1784.*)

CHAPTER 6. State and Local Fund Allocations [17600 - 17613.4] (*Chapter 6 added by Stats. 1991, Ch. 89, Sec. 201.5.*)

ARTICLE 13. Redirection of Realignment for Counties [17613.1 - 17613.4] (*Article 13 added by Stats. 2013, Ch. 24, Sec. 21.*)

17613.1. (a) For the 2013–14 fiscal year and each fiscal year thereafter, for each county, the total amount that would be payable for the fiscal year from 1991 health realignment funds under Section 17603, as it read on January 1, 2012, Section 17604, as it read on August 1, 2017, Section 17606.20, as it read on August 1, 2019, and Section 17606.10, as it read on July 1, 2013, and deposited by the Controller into the local health and welfare trust fund health account of the county in the absence of this section, shall be determined.

(b) The redirected amount determined for the county pursuant to Section 17613.3 shall be divided by the total determined in subdivision (a).

(c) The resulting fraction determined in subdivision (b) shall be the percentage of 1991 health realignment funds under Section 17603, as it read on January 1, 2012, Section 17604, as it read on August 1, 2017, Section 17606.20, as it read on August 1, 2019, and Section 17606.10, as it read on July 1, 2013, to be deposited each month into the Family Support Subaccount.

(d) The total amount deposited pursuant to subdivision (c) with respect to a county for a fiscal year shall not exceed the redirected amount determined pursuant to Section 17613.3, and shall be subject to the appeal processes, and judicial review as described in subdivision (d) of Section 17613.3.

(e) The Legislature finds and declares that this article is not intended to change the local obligation pursuant to Section 17000.

(*Amended by Stats. 2019, Ch. 67, Sec. 13. (SB 104) Effective July 9, 2019.*)

17613.2. For purposes of this article, the following definitions apply:

(a) “Base year” means the fiscal year ending three years prior to the fiscal year for which the redirected amount is calculated.

(b) “Blended CPI trend factor” means the blended percent change applicable for the fiscal year that is derived from the nonseasonally adjusted Consumer Price Index for All Urban Consumers (CPI-U), United States City Average, for Hospital and Related Services, weighted at 75 percent, and for Medical Care Services, weighted at 25 percent, all as published by the United States Bureau of Labor Statistics, computed as follows:

(1) For each prior fiscal year within the period to be trended through the state fiscal year, the annual average of the monthly index amounts shall be determined separately for the Hospital and Related Services Index and the Medical Care Services Index.

(2) The year-to-year percentage changes in the annual averages determined in paragraph (1) for each of the Hospital and Related Services Index and the Medical Care Services Index shall be determined.

(3) A weighted average annual percentage change for each year-to-year period shall be calculated from the determinations made in paragraph (2), with the percentage changes in the Hospital and Related Services Index weighted at 75 percent, and the percentage changes in the Medical Care Services Index weighted at 25 percent. The resulting average annual percentage changes shall be expressed as a fraction, and increased by 1.00.

(4) The product of the successive year-to-year amounts determined in paragraph (3) shall be the blended CPI trend factor.

(c) “Calculated cost per person” is determined by dividing county indigent program costs by the number of indigent program individuals for the applicable fiscal year. If a county expands eligibility, the enrollment count is limited to those indigent program

individuals who would have been eligible for services under the eligibility requirements in existence on July 1, 2013, except if approved as an exception allowed pursuant to paragraph (3) of subdivision (d).

(d) "Cost containment limit" means the county's indigent program costs determined for the 2014–15 fiscal year and each subsequent fiscal year, to be adjusted as follows:

(1) (A) The county's indigent program costs for the state fiscal year shall be determined as indigent program costs for purposes of this paragraph for the relevant fiscal period.

(B) The county's calculated costs per person for the base year will be multiplied by the blended CPI trend factor and then multiplied by the county's fiscal year indigent program individuals. The base year costs used shall not reflect any adjustments under this subdivision.

(C) The fiscal year amount determined in subparagraph (A) shall be compared to the trended amount in subparagraph (B). If the amount in subparagraph (B) exceeds the amount in subparagraph (A), the county will be deemed to have satisfied the cost containment limit. If the amount in subparagraph (A) exceeds the amount in subparagraph (B), the calculation in paragraph (2) shall be performed.

(2) If a county's costs as determined in subparagraph (A) of paragraph (1) exceed the amount determined in subparagraph (B) of paragraph (1), the following costs, as allocated to the county's indigent care program, shall be added to the cost and reflected in any containment limit:

(A) Costs related to state or federally mandated activities, requirements, or benefit changes.

(B) Costs resulting from a court order or settlement.

(C) Costs incurred as a result of a natural disaster or act of terrorism.

(3) If a county's costs as determined in subparagraph (A) of paragraph (1) exceed the amount determined in subparagraph (B) of paragraph (1), as adjusted by paragraph (2), the county may request that the department consider other costs as adjustments to the cost containment limit. These costs would require departmental approval.

(e) "County" for purposes of this article means the following counties: Fresno, Merced, Orange, Placer, Sacramento, San Diego, San Luis Obispo, Santa Barbara, Santa Cruz, Stanislaus, Tulare, and Yolo. Beginning in the 2019–20 fiscal year and for each fiscal year thereafter, "county" does not include the County of Yolo.

(f) "County indigent care health realignment amount" means the product of the health realignment amount times the health realignment indigent care percentage, as computed on a county-specific basis.

(g) "County savings determination process" means the process for determining the amount to be redirected in accordance with Section 17613.1, as calculated pursuant to subdivision (a) of Section 17613.3.

(h) "Department" means the State Department of Health Care Services.

(i) "Health realignment amount" means the amount that, in the absence of this article, would be payable to a county under Section 17603, as it read on January 1, 2012, Section 17604, as it read on August 1, 2017, Section 17606.20, as it read on August 1, 2019, and Section 17606.10, as it read on July 1, 2013, for the fiscal year that is deposited by the Controller into the local health and welfare trust fund health account of the county.

(j) "Health realignment indigent care percentage" means the county-specific percentage determined in accordance with the following, and established in accordance with the procedures described in subdivision (c) of Section 17613.3:

(1) Each county shall identify the portion of that county's health realignment amount that was used to provide health services to the indigent, including the indigent program individuals, for each of the historical fiscal years, along with verifiable data in support thereof.

(2) The amounts identified in paragraph (1) shall be expressed as a percentage of the health realignment amount of that county for each fiscal year of the historical fiscal years.

(3) The average of the percentages determined in paragraph (2) shall be the county's health realignment indigent care percentage.

(4) To the extent a county does not provide the information required in paragraph (1) or the department determines that the information required is insufficient, the amount under this subdivision shall be considered to be 85 percent.

(k) All references to "health services" or "health care services," unless specified otherwise, shall exclude mental health and substance use disorder services.

(l) "Historical fiscal years" means the fiscal years 2008–09 to 2011–12, inclusive.

(m) "Imputed county low-income health amount" means the predetermined, county-specific amount of county general purpose funds assumed, for purposes of the calculation in Section 17613.3, to be available to the county for services to indigent program individuals. The imputed county low-income health amount shall be determined as set forth below and established in accordance with subdivision (c) of Section 17613.3:

(1) For each of the historical fiscal years, an amount shall be determined as the annual amount of county general fund contribution provided for health services to the indigent, which does not include funds provided for mental health and substance use disorder services, through a methodology to be developed by the department, in consultation with the California State Association of Counties.

(2) If a year-to-year percentage increase in the amount determined in paragraph (1) was present, an average annual percentage trend factor shall be determined.

(3) The annual amounts determined in paragraph (1) shall be averaged and multiplied by the percentage trend factor, if applicable, determined in paragraph (2), for each fiscal year after the 2011–12 fiscal year through the applicable fiscal year. Notwithstanding the foregoing, if the percentage trend factor determined in paragraph (2) is greater than the applicable percentage change for any year of the same period in the blended CPI trend factor, the percentage change in the blended CPI trend factor for that year shall be used. The resulting determination is the imputed county low-income health amount for purposes of Section 17613.3.

(n) "Indigent program costs" means the costs incurred by the county for purchasing, providing, or ensuring the availability of services to indigent program individuals during the fiscal year. The costs for mental health and substance use disorder services shall not be included in these costs.

(o) "Indigent program individuals" means all individuals enrolled in a county indigent health care program at any point throughout the fiscal year. If a county does not enroll individuals into an indigent health care program, indigent program individuals shall mean all individuals who used services offered through the county indigent health care program in the fiscal year.

(p) "Indigent program revenues" means self-pay payments made by or on behalf of indigent program individuals to the county for the services rendered in the fiscal year, but shall exclude revenues received for mental health and substance use disorder services.

(q) "Redirected amount" means the amount to be redirected in accordance with Section 17613.1, as calculated pursuant to subdivision (a) of Section 17613.3.

(r) "Special local health funds" means the amount of the following county funds received by the county for health services to indigent program individuals during the fiscal year and shall include funds available pursuant to the Master Settlement Agreement and related documents entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers during a fiscal year. The amount of the tobacco settlement funds to be used for this purpose shall be the greater of paragraph (1) or (2), less any bond payments and other costs of securitization related to the funds described in this subdivision.

(1) The amount of the funds expended by the county for the provision of health services to indigent program individuals during the fiscal year.

(2) The amount of the tobacco settlement funds multiplied by the average of the percentages of the amount of tobacco settlement funds that were allocated to and expended by the county for health services to indigent program individuals during the historical fiscal years.

(Amended by Stats. 2019, Ch. 67, Sec. 14. (SB 104) Effective July 9, 2019.)

17613.3. (a) For each fiscal year commencing with the 2013–14 fiscal year, the amount to be redirected in accordance with Section 17613.1 shall be determined for each county as set forth in this section.

(1) The county's revenues and other funds paid or payable for the fiscal year shall be comprised of the total of the following:

(A) Indigent program revenues.

(B) Special local health funds.

(C) The county indigent care health realignment amount.

(D) The imputed county low-income health amount.

(2) Indigent program costs incurred by the county for the fiscal year, not to exceed in total the cost containment limit, shall be subtracted from the sum in paragraph (1).

(3) The resulting amount shall be multiplied by 0.80, except for the 2013–14 fiscal year where the resulting amount shall be multiplied by 0.70.

(4) If the amount in paragraph (3) is a positive number, that amount, subject to paragraph (5), shall be redirected in accordance with Section 17613.1, except that for the 2013–14 fiscal year, the amount to be redirected shall not exceed the amount determined for the county for the 2013–14 fiscal year under subdivision (c) of Section 17603, as that amount may have been reduced by the application of Section 17610.5. If the amount determined in paragraph (3) is a negative number, the redirected amount shall be zero.

(5) Notwithstanding any other law, the amount to be redirected as determined in paragraph (4) for a fiscal year shall not exceed the county indigent care health realignment amount for that fiscal year.

(6) (A) The redirected amount shall be applied until the later of the following:

(i) June 30, 2023.

(ii) The beginning of the fiscal year following a period of two consecutive fiscal years in which both of the following occur:

(I) The total interim amount determined under subdivision (b) in May of the previous fiscal year is within 10 percent of the final, reconciled amount in subdivision (d).

(II) The final, reconciled amounts under subdivision (d) are within 5 percent of each other.

(B) After the redirected amount ceases as provided in subparagraph (A), a permanent redirected amount shall be established to be the amount determined by calculating the percentage that the redirected amount was in the last fiscal year of the operation of this article of the county's health realignment amount of that same fiscal year, multiplied by the county's health realignment amount of all subsequent years.

(b) Starting with the 2014–15 fiscal year, the department shall calculate an interim redirected amount for each county under subdivision (a) by the January immediately prior to the starting fiscal year, using the most recent and accurate data available. For purposes of the interim determinations, the cost containment limit shall not be applied. The interim redirected amount shall be updated in the May before the start of the fiscal year in consultation with each county and based on any more recent and accurate data available at that time. During the fiscal year, the interim redirected amount will be applied pursuant to Section 17613.1.

(c) The predetermined amounts or historical percentages described in subdivisions (j), (m), and (r) of Section 17613.2 shall each be established in accordance with the following procedure:

(1) By October 31, 2013, each county shall determine the amount or percentage described in the applicable subdivision, and shall provide this calculation to the department, supported by verifiable data and a description of how the determination was made.

(2) If the department disagrees with the county's determination, the department shall confer with the county by December 15, 2013, and shall issue its determination by January 31, 2014.

(3) If no agreement between the parties has been reached by January 31, 2014, the department shall apply the county's determination when making the interim calculations pursuant to subdivision (b), until a decision is issued pursuant to paragraph (6).

(4) If no agreement between the parties has been reached by January 31, 2014, the county shall submit a petition by February 28, 2014, to the County Health Care Funding Resolution Committee, established pursuant to Section 17600.60, to seek a decision regarding the historical percentage or amount to be applied in calculations under this section.

(5) The County Health Care Funding Resolution Committee shall hear and make a determination as to whether the county's proposed percentage or amount complies with the requirements of this section based on the data and calculations of the county and any alternative data and calculations submitted by the department.

(6) The County Health Care Funding Resolution Committee shall issue its final determination within 45 days of the petition. If the county chooses to contest the final determination, the final determination of the committee will be applied for purposes of any interim calculation under subdivision (b) until a final decision is issued pursuant to de novo administrative review under paragraph (2) of subdivision (d).

(d) (1) The data for the final calculations under subdivision (a) for the fiscal year shall be submitted by counties within 12 months after the conclusion of each fiscal year as required in Section 17613.4. The data shall be the most recent and accurate data from the county's books and records pertaining to the revenues paid or payable, and the costs incurred, for services provided in the subject fiscal year. After consulting with the county, the department shall make final calculations using the data submitted pursuant to this paragraph by December 15 of the following fiscal year, and shall provide its final determination to the county. The final determination will also reflect the application of the cost containment limit, if any. If the county and the department agree, a revised recalculation and reconciliation may be completed by the department within six months thereafter.

(2) The Director of Health Care Services shall establish an expedited formal appeal process for a county to contest final determinations made under this article. No appeal shall be available for interim determinations made under subdivision (b). The appeals process shall include all of the following:

(A) The county shall have 30 calendar days, following the issuance of a final determination made under paragraph (6) of subdivision (c) or paragraph (1) of this subdivision, to file an appeal with the director. All appeals shall be governed by Section 100171 of the Health and Safety Code, except for those provisions of paragraph (1) of subdivision (d) of Section 100171 of the Health and Safety Code relating to accusations, statements of issues, statement to respondent, and notice of defense, and except as otherwise set forth in this section. All appeals shall be in writing and shall be filed with the State Department of Health Care Service's Office of Administrative Hearings and Appeals. An appeal shall be deemed filed on the date it is received by the Office of Administrative Hearings and Appeals.

(i) An appeal shall specifically set forth each issue in dispute, including, but not limited to, any component of the determination, and include the county's contentions as to those issues. A formal hearing before an Office of Administrative Hearings and Appeals Administrative Law Judge shall commence within 60 days of the filing of the appeal requesting a formal hearing. A final decision under this paragraph shall be adopted no later than six months following the filing of the appeal.

(ii) If the county fails to file an appeal within 30 days of the issuance of a determination made under this section, the determination of the department shall be deemed final and not appealable either administratively or to a court of general jurisdiction, except that a county may elect to appeal a determination under subdivision (c) within 30 days of the issuance of the County Health Care Funding Resolution Committee's final determination under paragraph (6) of subdivision (c) or as a component of an appeal of the department's final determination under paragraph (1) for the 2013–14 fiscal year.

(B) If a final decision under this paragraph is not issued by the department within two years of the last day of the subject fiscal year, the county shall be deemed to have exhausted its administrative remedies, and shall not be precluded from pursuing any available judicial review. However, the time period in this subdivision shall be extended by either of the following:

(i) Undue delay caused by the county.

(ii) An extension of time granted to a county at its sole request, or following the joint request of the county and the department.

(C) If the final decision issued by the department pursuant to this paragraph results in a different determination than that originally made by the department, then the Department of Finance shall adjust the original determination by that amount, pursuant to a process developed by the Department of Finance and in consultation with the California State Association of Counties.

(Amended by Stats. 2014, Ch. 71, Sec. 207. (SB 1304) Effective January 1, 2015.)

17613.4. (a) Beginning with the 2013–14 fiscal year, each county that has elected to participate in the County Savings Determination Process shall, within five months after the end of each fiscal year, be required to submit initial reports on both of the following:

(1) All revenue data required for the operation of Section 17613.3, including both of the following:

(A) Indigent program revenues.

(B) Special local health funds.

(2) All cost data required for the operation of Section 17613.3, including indigent program costs.

(b) Counties shall submit final reports of cost and revenue data identified in subdivision (a) to the department for each fiscal year no later than June 30 of the fiscal year ending one year after the subject fiscal year.

(c) The department shall develop, in consultation with the California State Association of Counties, the methodologies used to determine the costs and revenues required to be reported and the format of the submissions.

(d) Reports submitted under this section shall be accompanied by a certification by an appropriate public official attesting to the accuracy of the reports.

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

