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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.*)

PART 1. CALIFORNIA DEPARTMENT OF HEALTH SERVICES [100100 - 100922] (*Part 1 added by Stats. 1995, Ch. 415, Sec. 3.*)

CHAPTER 2. General Powers of the Department [100150 - 100335] (*Chapter 2 added by Stats. 1995, Ch. 415, Sec. 3.*)

ARTICLE 1. General Provisions [100150 - 100236] (*Article 1 added by Stats. 1995, Ch. 415, Sec. 3.*)

100150. The State Department of Health Services succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health as they relate to public health, licensing and certification of health facilities, except community care facility licensing to which the State Department of Social Services succeeds, and any other functions performed by the Division of Public Health of the State Department of Health on July 1, 1978, unless the function is transferred to a different state agency or department as a result of another provision of the statutes of the 1977–78 Regular Session of the Legislature amending this section.

“State department,” “department,” or “State Department of Health” as used in this code, except in Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 or as otherwise specified in this code, means the State Department of Health Services.

The Office of Statewide Health Planning and Development shall assume the functions and responsibilities of the Facilities Construction Unit of the former State Department of Health, including, but not limited to, those functions and responsibilities performed pursuant to the following provisions of law: Sections 13113 and 127050; Article 1 (commencing with Section 129000) of Chapter 1 of, and Chapter 2 (commencing with Section 129375) of, Part 6 of, and Part 7 (commencing with Section 129675) of, Division 107.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100155. The department may use the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health to which the department has succeeded pursuant to Section 100150.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100160. All officers and employees of the State Department of Health heretofore performing any duty, power, purpose, responsibility, or jurisdiction to which the department has succeeded, who, on July 1, 1978, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 100150 shall be transferred to the department. The status, positions, and rights of these persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department, pursuant to the State Civil Service Act except as to positions exempted from civil service.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100165. The department shall have possession and control of all records, papers, officers, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of any state agency whose functions are vested in the department by Section 100150.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100170. (a) The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(1) To enforce its regulations.

(2) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to its powers and duties.

(b) It may defend all actions and proceedings involving its powers and duties.

(c) In all actions and proceedings it shall sue and be sued under the name of the department.

(Amended by Stats. 2006, Ch. 241, Sec. 18. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

100171. Notwithstanding any other provision of law, whenever the department is authorized or required by statute, regulation, due process (Fourteenth Amendment to the United States Constitution; subdivision (a) of Section 7 of Article I of the California Constitution), or a contract, to conduct an adjudicative hearing leading to a final decision of the director or the department, the following shall apply:

(a) The proceeding shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this section.

(b) Notwithstanding Section 11502 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the hearing shall be conducted before an administrative law judge selected by the department and assigned to a hearing office that complies with the procedural requirements of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) (1) Notwithstanding Section 11508 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the time and place of the hearing shall be determined by the staff assigned to the hearing office of the department, except as provided in paragraph (2) or unless the department, by regulation, specifies otherwise.

(2) Formal hearings requested by institutional Medi-Cal providers and health facilities shall be held in Sacramento.

(d) (1) Unless otherwise specified in this section, the following sections of the Government Code shall apply to any adjudicative hearing conducted by the department only if the department has not, by regulation, specified an alternative procedure for the particular type of hearing at issue: Section 11503 (relating to accusations), Section 11504 (relating to statements of issues), Section 11505 (relating to the contents of the statement to respondent), Section 11506 (relating to the notice of defense), Section 11507.6 (relating to discovery rights and procedures), Section 11508 (relating to the time and place of hearings), and Section 11516 (relating to amendment of accusations).

(2) Any alternative procedure specified by the department in accordance with this subdivision shall conform to the purpose of the Government Code provision it replaces insofar as it is possible to do so consistent with the specific procedural requirements applicable to the type of hearing at issue.

(3) Any alternative procedures adopted by the department under this subdivision shall not diminish the amount of notice given of the issues to be heard by the department or deprive appellants of the right to discovery suitable to the particular proceedings. Except as specified in paragraph (2) of subdivision (c), modifications of timeframes or of the place of hearing made by regulation shall not lengthen timeframes within which the department is required to act nor require hearings to be held at a greater distance from the appellant's place of residence or business than is the case under the otherwise applicable Government Code provision.

(e) The specific timelines specified in Section 11517 of the Government Code shall not apply to any adjudicative hearing conducted by the department to the extent that the department has, by regulation, specified different timelines for the particular type of hearing at issue.

(f) In the case of any adjudicative hearing conducted by the department, "transcript," as used in subdivision (c) of Section 11517 of the Government Code, shall be deemed to include any alternative form of recordation of the oral proceedings, including, but not limited to, an audio recording.

(g) Pursuant to Section 11415.50 of the Government Code, the department may, by regulation, provide for any appropriate informal procedure to be used for an informal level of review that does not itself lead to a final decision of the department or the director. The procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to an informal level of review authorized by this subdivision. Informal conferences concerning appeals by institutional Medi-Cal providers and health facilities may be held in Sacramento or Los Angeles.

(h) Notwithstanding any other provision of law, any adjudicative hearing conducted by the department that is conducted pursuant to a federal statutory or regulatory requirement that contains specific procedures may be conducted pursuant to those procedures to the extent they are inconsistent with the procedures specified in this section.

(i) Nothing in this section shall apply to a fair hearing involving a Medi-Cal beneficiary insofar as the hearing is, by agreement or otherwise, heard before an administrative law judge employed by the State Department of Social Services, or insofar as the hearing is being held pursuant to Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code in connection with services provided by the State Department of Developmental Services under applicable federal Medicaid waivers. Nothing in this subdivision shall be interpreted as abrogating the authority of the State Department of Health Care Services as the single state agency under the state Medicaid plan.

(j) Nothing in this provision shall supersede express provisions of law that apply to any hearing that is not adjudicative in nature or that does not involve due process rights specific to an individual or specific individuals, as opposed to the general public or a segment of the general public.

(Amended by Stats. 2009, Ch. 88, Sec. 67. (AB 176) Effective January 1, 2010.)

100185.5. (a) When a letter or order of denial of continued enrollment or suspension of any type or duration, based upon fraud or abuse, or a suspension of payments pursuant to Section 14107.11 of the Welfare and Institutions Code, is issued by the department to a provider, the director shall review the evidence supporting the denial of continued enrollment, suspension, or suspension of payments. If, in the opinion of the director, the evidence shows a pattern or practice of fraud, abuse, or willful misrepresentation that, if replicated in any other health care program administered by the department, could cause either fiscal loss to the state or harm to any participant, the director may deny continued enrollment, suspend, or suspend payments to, the provider with respect to those other health care programs. Any denial of continued enrollment, suspension, or suspension of payments may be for an indefinite or definite period of time, may be stayed for a period of time, and may be with or without conditions or probation.

(b) The director may deny the application of an applicant or provider to participate in any health care program administered by the department, when, based upon fraud or abuse, the applicant or provider has been denied continued enrollment in, or suspended from, any health care program administered by the department, or has had payments suspended in connection with the Medi-Cal program pursuant to Section 14107.11 of the Welfare and Institutions Code by the department, and remains ineligible to participate in the health care program from which the applicant or provider was denied continued enrollment, suspended, or had payments suspended.

(c) The director may deny any new or additional application of a provider to participate in any health care program administered by the department if utilization controls including, but not limited to, prior authorization or special claims review pursuant to Sections 51159, 51455, and 51460 of Title 22 of the California Code of Regulations have been imposed upon that provider by any health care program administered by the department. Applications shall not be denied based solely upon utilization controls imposed upon an entire class or category of providers to which that provider belongs.

(d) Notwithstanding any other law, any provider or applicant who has been denied continued enrollment in, or suspended from, or that has had payments suspended in connection with, any health care program administered by the department, or whose application to participate in a health care program administered by the department is denied, pursuant to this section, may appeal that action in accordance with Section 14043.65 of the Welfare and Institutions Code.

(e) For purposes of this section, the following definitions apply:

(1) "Abuse" has the same meaning as that term is defined in Section 14043.1 of the Welfare and Institutions Code.

(2) "Administered by the department" means administered by the State Department of Health Care Services or by its agents or contractors on behalf of the State Department of Health Care Services.

(3) "Applicant" means any person, individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that applies to the department for enrollment as a provider or participation as a provider in a health care program administered by the department.

(4) "Fraud" has the same meaning as that term is defined in Section 14043.1 of the Welfare and Institutions Code.

(5) "Provider" means any person, individual, partnership, group, association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that provides services, goods, supplies, or merchandise, directly or indirectly, to a person enrolled in a health care program administered by the department.

(6) "Payment suspension" means the suspension of payments in accordance with Section 14107.11 of the Welfare and Institutions Code.

(f) For purposes of this section, "suspension" includes, but is not limited to, suspensions authorized under Article 1.3 (commencing with Section 14043) or Article 3 (commencing with Section 14123) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(g) For purposes of this section, "health care program administered by the department" includes, but is not limited to, the Medi-Cal program.

(Amended by Stats. 2012, Ch. 797, Sec. 1. (SB 1529) Effective January 1, 2013.)

100220. With the approval of the Department of Finance, and for use in the furtherance of the work of the department, the director may accept (a) grants of interest in real property, and (b) gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purposes.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100235. (a) The department shall annually reimburse the Robert F. Kennedy Farm Workers Medical Plan for claim payments that exceed seventy thousand dollars (\$70,000) made by the plan on behalf of an eligible employee or dependent for a single episode of care on or after September 1, 2016. This reimbursement shall not exceed three million dollars (\$3,000,000) per year.

(b) To seek reimbursement, commencing after September 1, 2017, and annually thereafter, the plan shall submit to the department completed data, verified by an independent certified public accountant, for claims paid by the plan for services during the preceding year from September 1 to August 31, inclusive.

(c) (1) If the department receives claims data from the plan pursuant to subdivision (b), the department shall analyze that data to determine the aggregate amount of claims that exceed seventy thousand dollars (\$70,000) paid by the plan on behalf of an eligible employee or dependent for any single episode of care.

(2) No later than 60 days after the department receives claims data submitted by the plan, the department shall reimburse the plan the amount determined pursuant to paragraph (1), up to the amount of three million dollars (\$3,000,000) per year.

(d) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2031, deletes or extends that date.

(Amended by Stats. 2023, Ch. 333, Sec. 1. (AB 494) Effective January 1, 2024. Repealed as of January 1, 2031, by its own provisions.)

100236. (a) Within 60 days of enactment of the Budget Act, the department shall advance to a local health department 25 percent of the annual General Fund allocation, subvention, or reimbursement required by a local health department for the delivery of services specified in subdivision (b). In determining the dollar amount of the 25 percent allocation, subvention, or reimbursement, the department shall use the local health department's prior year's or the most recently completed fiscal year's allocation.

(b) Subdivision (a) shall apply to the following health programs and General Fund funding sources:

(1) Funding for administration for the California Children's Services Program (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106).

(2) Funding for medical therapy for the California Children's Services Program (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106).

(3) Funding for administration for the Child Health and Disability Prevention Program (Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106).

(4) Funding for HIV education and prevention services under Section 100119.

(c) This section shall not apply to a local health department that is three or more quarters in arrears in billing the state for the programs specified in subdivision (b).

(d) For purposes of this section, "local health department" has the same meaning as that set forth in Section 101185.

(Added by Stats. 1999, Ch. 847, Sec. 1. Effective January 1, 2000.)