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**AB-651 Air ambulance services.** (2019-2020)

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Date Published: 10/08/2019 02:00 PM

**Assembly Bill No. 651**

**CHAPTER 537**

An act to amend Section 76000.10 of the Government Code, to add Section 1371.55 to the Health and Safety Code, and to add Section 10126.65 to the Insurance Code, relating to air ambulance services.

[ Approved by Governor October 07, 2019. Filed with Secretary of State October 07, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 651, Grayson. Air ambulance services.

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires that health care service plan contracts and health insurance policies provide coverage for certain services and treatments, including emergency medical transportation services.

This bill would require a health care service plan contract or a health insurance policy issued, amended, or renewed on or after January 1, 2020, to provide that if an enrollee, insured, or subscriber (individual) receives covered services from a noncontracting air ambulance provider, the individual shall pay no more than the same cost sharing that the individual would pay for the same covered services received from a contracting air ambulance provider, referred to as the in-network cost-sharing amount. The bill would provide that an individual would not owe the noncontracting provider more than the in-network cost-sharing amount for services. The bill would authorize a noncontracting provider to advance to collections only the in-network cost-sharing amount that the individual has failed to pay. The bill would authorize a health care service plan, health insurer, or provider to seek relief in any court for the purpose of resolving a payment dispute, and would not prohibit a provider from using a health care service plan's or health insurer's existing dispute resolution processes. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Emergency Medical Air Transportation Act, effective until January 1, 2022, imposes a penalty of \$4 until January 1, 2020, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or the court that imposed the fine to transfer the moneys collected pursuant to that act to the Treasurer for deposit into the Emergency Medical Air Transportation and Children's Coverage Fund. Under the act, moneys in the fund are made available, upon appropriation by the Legislature, to the State Department of Health Care Services for children's health care coverage and administrative costs relating to emergency medical air transportation provider payments.

Existing law requires the assessed penalty to continue to be collected, administered, and distributed until exhausted or until June 30, 2021, whichever occurs first, and requires any remaining unexpended and unencumbered moneys in the fund to be transferred to the General Fund, to be available, upon appropriation by the Legislature, for specified purposes, including funding children's health care coverage.

This bill would impose the penalty until July 1, 2020, and would extend the above-specified dates by six months.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 76000.10 of the Government Code is amended to read:

**76000.10.** (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation Act.

(b) For purposes of this section:

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

(2) "Director" means the Director of Health Care Services.

(3) "Provider" means a provider of emergency medical air transportation services.

(4) "Rotary wing" means a type of aircraft, commonly referred to as a helicopter, that generates lift through the use of wings, known as rotor blades, that revolve around a mast.

(5) "Fixed wing" means a type of aircraft, commonly referred to as an airplane, that generates lift through the use of the forward motion of the aircraft and wings that do not revolve around a mast but are fixed in relation to the fuselage of the aircraft.

(6) "Air mileage rate" means the per-mileage reimbursement rate paid for services rendered by rotary-wing and fixed-wing providers.

(c) (1) For purposes of implementing this section, a penalty of four dollars (\$4) shall be imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(2) The penalty described in this subdivision is in addition to the state penalty assessed pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code, and the state court construction penalty pursuant to Section 70372 of this code, and to calculate the other additional penalties levied pursuant to this chapter.

(d) The county or the court that imposed the fine shall, in accordance with the procedures set out in Section 68101, transfer moneys collected pursuant to this section to the Treasurer for deposit into the Emergency Medical Air Transportation and Children's Coverage Fund, which is hereby established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air Transportation and Children's Coverage Fund shall include interest and dividends earned on money in the fund. Any law that references the Emergency Medical Air Transportation Act Fund, as previously established by this subdivision, shall be construed to reference the Emergency Medical Air Transportation and Children's Coverage Fund, effective January 1, 2018.

(e) (1) The Emergency Medical Air Transportation and Children's Coverage Fund shall be administered by the State Department of Health Care Services. Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund shall be made available, upon appropriation by the Legislature, to the department for any of the following purposes:

(A) For children's health care coverage.

(B) For emergency medical air transportation provider payments, as follows:

(i) For payment of the administrative costs of the department in administering emergency medical air transportation provider payments.

(ii) Twenty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to offset the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services.

(iii) Eighty percent of the appropriated money remaining after payment of administrative costs pursuant to clause (i) shall be used to augment emergency medical air transportation reimbursement payments made through the Medi-Cal program, as set forth in paragraphs (2) and (3).

(2) If money in the Emergency Medical Air Transportation and Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), both of the following shall occur:

(A) The department shall seek to obtain federal matching funds by using the moneys in the Emergency Medical Air Transportation and Children's Coverage Fund for the purpose of augmenting Medi-Cal reimbursement paid to emergency medical air transportation providers.

(B) The director shall augment emergency medical air transportation provider payments in accordance with a federally approved reimbursement methodology. The director may seek federal approvals or waivers as may be necessary to implement this section and to obtain federal financial participation to the maximum extent possible for the payments under this section.

(3) (A) Upon appropriation by the Legislature, the department shall use moneys in the Emergency Medical Air Transportation and Children's Coverage Fund and any federal matching funds to do any of the following:

(i) Fund children's health care coverage.

(ii) Increase the Medi-Cal reimbursement for emergency medical air transportation services in an amount not to exceed normal and customary charges charged by the providers.

(B) Notwithstanding any other law, and pursuant to this section, if money in the Emergency Medical Air Transportation and Children's Coverage Fund is made available to the department for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the Medi-Cal reimbursement for emergency medical air transportation services if both of the following conditions are met:

(i) Moneys in the Emergency Medical Air Transportation and Children's Coverage Fund will cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph (1).

(ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency medical air transportation services increase.

(f) The assessment of penalties pursuant to this section shall terminate on July 1, 2020. Penalties assessed before July 1, 2020, shall continue to be collected, administered, and distributed pursuant to this section until exhausted or until December 31, 2021, whichever occurs first. On December 31, 2021, moneys remaining unexpended and unencumbered in the Emergency Medical Air Transportation and Children's Coverage Fund shall be transferred to the General Fund, to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement for emergency medical air transportation and related costs, generally, or funding children's health care coverage.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this section and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory action.

(h) This section shall remain in effect only until July 1, 2022, and as of that date is repealed.

**SEC. 2.** Section 1371.55 is added to the Health and Safety Code, to read:

**1371.55.** (a) (1) Notwithstanding Section 1367.11, a health care service plan contract issued, amended, or renewed on or after January 1, 2020, shall provide that if an enrollee receives covered services from a noncontracting air ambulance provider, the enrollee shall pay no more than the same cost-sharing amount that the enrollee would pay for the same covered services received from a contracting air ambulance provider. This amount shall be referred to as the "in-network cost-sharing amount."

(2) An enrollee shall not owe the noncontracting provider more than the in-network cost-sharing amount for services subject to this section. At the time of payment by the plan to the noncontracting provider, the plan shall inform the enrollee and the noncontracting provider of the in-network cost-sharing amount owed by the enrollee.

(b) The following shall apply for purposes of this section:

(1) Any cost sharing paid by the enrollee for the services subject to this section shall count toward the limit on annual out-of-pocket expenses established under Section 1367.006.

(2) Cost sharing arising from services subject to this section shall be counted toward any deductible in the same manner as cost sharing would be attributed to a contracting provider.

(3) The cost sharing paid by the enrollee pursuant to this section shall satisfy the enrollee's obligation to pay cost sharing for the health service.

(c) A noncontracting provider may advance to collections only the in-network cost-sharing amount, as determined by the plan pursuant to subdivision (a), that the enrollee failed to pay.

(d) A health care service plan or a provider may seek relief in any court for the purpose of resolving a payment dispute. A provider is not prohibited from using a health care service plan's existing dispute resolution processes.

(e) Air ambulance service providers remain subject to the balance billing protections for Medi-Cal beneficiaries under Section 14019.4 of the Welfare and Institutions Code.

**SEC. 3.** Section 10126.65 is added to the Insurance Code, to read:

**10126.65.** (a) (1) Notwithstanding Section 10352, a health insurance policy issued, amended, or renewed on or after January 1, 2020, shall provide that if an insured or subscriber receives covered services from a noncontracting air ambulance provider, the insured or subscriber shall pay no more than the same cost sharing that the insured or subscriber would pay for the same covered services received from a contracting air ambulance provider. This amount shall be referred to as the "in-network cost-sharing amount."

(2) A subscriber or insured shall not owe the noncontracting provider more than the in-network cost-sharing amount for services subject to this section. At the time of payment by the insurer to the noncontracting provider, the insurer shall inform the insured or subscriber and the noncontracting provider of the in-network cost-sharing amount owed by the insured or subscriber.

(b) The following shall apply for purposes of this section:

(1) Any cost sharing paid by the insured or subscriber for the services subject to this section shall count toward the limit on annual out-of-pocket expenses established under Section 10112.28.

(2) Cost sharing arising from services subject to this section shall be counted toward any deductible in the same manner as cost sharing would be attributed to a contracting provider.

(3) The cost sharing paid by the insured or subscriber pursuant to this section shall satisfy the insured's or subscriber's obligation to pay cost sharing for the health service.

(c) A noncontracting provider may advance to collections only the in-network cost-sharing amount, as determined by the insurer pursuant to subdivision (a), that the insured or subscriber failed to pay.

(d) A health insurer or a provider may seek relief in any court for the purpose of resolving a payment dispute. A provider is not prohibited from using a health insurer's existing dispute resolution processes.

**SEC. 4.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.